IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR.

S.B. CRIMINAL MISC. CANCELLATION BAIL APPLICATION NO.5545/2007.

Shyam Lal Khati Vs. Stae of Rajasthan & Ors.

26.10.2007.

HON'BLE MR. JUSTICE DALIP SINGH

Smt. Sadhna Bhatt, Puiblic Prosecutor.

Notices were ordered to be issued the accused Shyam Lal Khati by this court vide order dated 2.8.2007 while hearing the bail application of the co accused Afzal Khan as the accused Shyam Lal Khati had been granted the bail under Section 438 Cr. P. C. in FIR No.153/2006 by this court in S.B. Criminal Misc. Bail Application No.7272/2006 vide order dated 15.12.2006.

This court had granted the bail to accused Shyam Lal Khati as it was contended that the co accused Afzal Khan was the main accused who had received the amount of Rs.3000/-from the complainant and was arrested and released on bail. Based upon the above submission on behalf of the accused Shyaam Lal Khati, this court had been pleased to grant the anticipatory bail under Section 438 Cr.P.C. to him.

Thereafter S.B. Criminal Misc. Bail Application No.5264/2007 was filed by Afzal Khan before this court which was considered by this court on 2.8.2007 and in which it was disclosed that the facts mentioned in the order dated 15.12.2006 prima facie appear to be false in the light of the submission of the learned Public Prosecutor.

In that view of the matter notices were ordered to be issued to the accused Shyam Lal Khati who had been earlier granted bail by this court vide order dated 15.12.2006 be not cancelled.

This court issued notices to accused Shyam Lal Khati on 2.8.2007. On 21.8.2007 the report on the notices was received that the accused Shyam Lal Khati is not residing at the address given by him for the last 8 to 10 years.

In that view of the mater bailable warrants were ordered to be issued against accused on 21.8.2007 for his appearance before this court.

When the case came up before this court on 28.9.2007 this court directed the SHO, Police Station, Jawar District Jhalawar to remain personally present along with case diary and the personal sureties bonds of Shyam Lal Khati so that the notices could be issued to the sureties as well to secure the presence of the accused Shyam Lal Khati.

Today the SHO Shri Nand Kishore (Sub Inspector), who is the Investigating Officer in FIR No.153/2006, Police Station, Jawar District Jhalawar has filed an affidavit wherein he has stated that after the order dated 15.12.2006 the accused Shyam Lal Khati did not appear before the Police for the purposes of submitting bail bonds and sureties bonds and has been absconding.

It has further been submitted that the Police after completing the investigation has filed a chargesheet in court of the Civil Judge cum Judicial Magistrate (Jr., Div.), Aklera District Jhalawar against 4 accused persons including Shyam Lal Khati and since the accused petitioners Shyamlal Khati and Afzal Khan have been absconding, the chargesheet has been filed under Section 299 Cr.P.C. against them.

In the facts and circumstances therefore I am inclined to re-call the order dated 15.12.2006 passed in S.B. Criminal Misc. Bail Application No.7272/2006 Shyam Lal Khati Vs. State of Rajasthan granting anticipatory bail to the Shyamlal Khati in

case arising out of FIR No.153/2006 Police Station, Jawar District Jhalawar. A certified copy of the order be sent to the concerned Police Station as well as to the court of Civil Judge cum Judicial Magistrate (Jr. Div.), Aklera District Jhalawar for informatioin.

Consequently, this criminal misc. cancellation of bail application is accordingly disposed of as above. The affidavit of Shri Nand Kishore, SHO, Police Station, Jawar District Jhalawar be kept on record.

(DALIP SINGH),J.

Ramchandrkhatri,PS